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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 ALEXANDER MARTINEZ-FLORES,

15 Defendant.
16

Case No. 17-cr-0068 EJD (NC)

DETENTION ORDER

Hearing: October 20, 2017

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18 In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), the Government
19 moved for detention of the defendant Alexander Martinez-Flores, and the Court on October
20 20, 2017, held a detention hearing to determine whether any condition or combination of
21 conditions will reasonably assure the appearance of the defendant as required and the safety
22 of any other person and the community. This order sets forth the Court's findings of fact
23 and conclusions of law as required by 18 U.S.C. § 3142(i). In conclusion, the Court finds
24 that detention is warranted.

25 The defendant was present at the detention hearing, represented by his attorney
26 Joshua Cohen. The Government was represented by Will Edelman, AUSA. The defendant
27 was assisted by a Spanish-language certified interpreter.

28 The defendant is charged by indictment in this District with one felony count of
Case No. 17-cr-0068 EJD (NC)

1 conspiracy to commit extortion by force, in violation of 18 U.S.C. § 1951(a). The
2 defendant is presumed innocent of the charge. *See* 18 U.S.C. § 3142(j).

3 The detention hearing was held publicly. Both parties were allowed an opportunity
4 to call witnesses and to present evidence. Both parties presented their arguments by way of
5 proffer through counsel. Both parties may appeal this detention order to the assigned trial
6 judge, U.S. District Court Judge Davila.

7 I. PRESUMPTIONS

8 The charged offense does not create a presumption of detention.

9 II. REBUTTAL OF PRESUMPTIONS

10 The defense has no burden to rebut in this case.

11 III. WRITTEN FINDINGS OF FACT AND STATEMENT OF REASONS

12 The Court has taken into account the factors set out in 18 U.S.C. § 3142(g) and all of
13 the information submitted at the hearing and finds as follows. The Court adopts the facts set
14 forth in the Pretrial Services Reports prepared October 19, supplemented by information
15 presented at the hearing. The Court finds that the Government has established by more than
16 clear and convincing evidence that the defendant poses a risk of danger to the community
17 and that no combination of conditions can reasonably mitigate that risk. The Government
18 proffered defendant's membership in the MS13 gang, participation in 17 gang meetings
19 including one that involved a physical attack on another person, possession of firearms and
20 ammunition, and threats of violence against others. The Government also proffered that
21 defendant committed a 2016 murder (which defendant denied through his counsel), but the
22 scarcity of facts and corroborating information, and the lack of a formal charge, mean that
23 the Court gave little weight to this allegation. Defendant's background, when joined with
24 the serious felony offense charged in this case, combine to create an untenable risk to the
25 community. As to risk of non-appearance, the Court finds that the defendant presents a
26 moderate risk (based on the charged offense conduct, his gang membership, and his
27 substantial ties and travel outside the United States), but that a combination of conditions
28 could be imposed to mitigate the risk.

1 IV. DIRECTIONS REGARDING DETENTION

2 The defendant is committed to the custody of the Attorney General or his designated
3 representative for confinement in a corrections facility separate, to the extent practicable,
4 from persons awaiting or serving sentences or being held in custody pending appeal. The
5 defendant must be afforded a reasonable opportunity for private consultation with defense
6 counsel. On order of a court of the United States or on the request of an attorney for the
7 Government, the person in charge of the corrections facility must deliver the defendant to a
8 United States Marshal for the purpose of an appearance in connection with a court
9 proceeding.

10 IT IS SO ORDERED.

11 Date: October 20, 2017

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Nathanael M. Cousins
United States Magistrate Judge